IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 24222 of 2007(H)

AGAINST THE ORDER IN EA.215 /07 IN EP.43/07 IN OS.16/1985 of SUB COURT, TIRUR

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PETITIONER:

INDIRA, AGED 40 YEARS,
W/O MOOKKAPARAMBATH KRISHNAN @ UNNI, VALLKUNNU AMSOM DESOM, VALLIKUNNU P.O., TIRURANGADI TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.P.CHANDRASEKHAR

RESPONDENTS:

EDATHOTTATHIL KRISHNAN,
S/O CHANDU, EDATHOTTATHIL HOUSE, PO VALLIKUNNU, VALLIKUNNU DESOM, TIRUR TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.T.SETHUMADHAVAN
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE PHOTOCOPY OF THE JUDGMENT DATED 15.11.1998 IN OS. 16/85 O;F THE SUB COURT, TIRUR.

EXT.P2: TRUE PHOTOCOPY OF ORDER DATED 16.6.2007 IN EP 43/2007 IN OS. 16/85 OF THE SUB COURT, TIRUR.

EXT.P3: TRUE COPY OF THE AFFIDAVIT IN EA NO. 215/2007 IN EP 43/2007 IN O.S. NO. 16/85 ON THE FILE OF SUB COURT, TIRUR.

EXT.P4: TRUE COPY OF THE OBJECTION FILED BY THE RESPONDENT IN EA NO. 215/2007 IN EP NO. 43/2007 IN O.S. NO. 16/85 ON THE FILE OF SUB COURT, TIRUR.

EXT.P5. TRUE COPY OF THE ORDER DATED 28.6.2007 IN EA. NO. 215/2007 IN EP NO. 43/2007 IN OS NO. 16/85 ON THE FILE OF SUB COURT, TIRUR ALONG WITH CLAIM PETITION.

/True Copy/

P.A to Judge.

M.N. KRISHNAN , J

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W.P.(C) NO. 24222 OF 2007

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Dated this the 20th day of August, 2007.

JUDGMENT

This writ petition is filed seeking to set aside Ext.P5 order whereby the court below has rejected the prayer as not maintainable. I had perused the counter affidavit filed by the decree holder. He had succeeded in the suit for specific performance and has obtained 6/7 shares in the property and it is further averred to the effect that it is that right which alone can be delivered that too symbolically. It is also made clear in Ext.P4 that the decree holder is intending to file a suit for partition and that he admits 1/7th share of the claim petitioner herein. Since all these admissions are there and only symbolic delivery is effected, these factors are recorded.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

rv